

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Julian Rodriguez and Enrique Silva Plata, §
Individually and On Behalf of Others
Similarly Situated,
Plaintiffs,

v. § CIVIL ACTION NO. 4:23-cv-112

Machinestation International, Inc., and
MacStat International, LLC,
Defendants.

§ JURY DEMANDED

DECLARATION OF JOSEF F. BUENKER

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

1. My name is Josef F. Buenker. I am over the age of eighteen years, and competent to make this declaration. I make this declaration pursuant to the provisions of 28 U.S.C. Sec.1746.
2. I am a licensed attorney practicing law in Harris County, Texas. I represent the Plaintiff in the above referenced matter. I graduated from the University of Houston Law Center in 1989 and have been a member of the Texas Bar since 1989. More than 90% of my practice is dedicated to the practice of employment law, in the specific area of wage and hour and overtime law, and I have been practicing civil trial work since 1989. My resume is attached to this declaration.
3. I am familiar with the rates charged by attorneys with similar experience in the Southern District of Texas and believe that my billing rate of \$500.00 per hour is reasonable for an attorney with my experience, and in a wage and hour matter such as the instant case, and I am aware that other attorneys with similar experience charge hourly rates well in excess of \$500.00. The fee I charge is one customarily charged in this area for the same or similar services for an attorney with my experience, reputation, and ability, considering the nature of the controversy, the time limitations imposed, the results obtained compared with results in similar cases, and the nature and length of my relationship with the Plaintiff.

4. I am attaching to this declaration evidence supporting my requested hourly rate of \$500, including declarations by other experienced attorneys and previous orders of courts approving my hourly rate at \$500.
4. I will have spent in excess of 25 hours working on this matter through the filing of the Plaintiff's Motion for Default Judgment. All time spent was necessary for the prosecution of my clients' claims, and included such tasks as drafting pleadings, communicating with my clients, obtaining service of process, reviewing documents and calculating wages owed to my clients. At this time, the attorney fees incurred in this matter exceed \$12,500.00. I have reduced them by in excess of \$2,000 in the interests of billing judgment as some of the work took longer than I reasonably think it should have. In addition, the clerk's filing fee was \$402.00. An itemization of legal fees is attached to this declaration; this itemization does not contain some of the time spent by me today, finalizing the Motion and finishing this declaration. I am not asking for that time, probably just over an hour, as part of the fees.
5. It is thus my opinion that reasonable attorney's fees through the filing of the Plaintiff's motion for default judgment are \$10,500.00, and that reasonable costs to be reimbursed to the Plaintiff are \$402.00.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed June 16, 2023.



Josef F. Buenker

JOSEF FRANZ BUENKER

The Buenker Law Firm

P.O. Box 10099

Houston, Texas 77206

(713)868-3388

(713)683-9940 (Fax)

EMPLOYMENT

The Buenker Law Firm, Houston, Texas

Owner, January, 2001 to August, 2006 and April, 2007 to Present

Attorney concentrating in employment and general civil litigation and legal advice to individuals and small businesses. Practice consists of wage and hour claims (FLSA claims) and commercial litigation, as well as general business transactions.

The Ammons Law Firm, Houston, Texas

Litigation Partner, August, 2006 to March, 2007

Litigation Partner in boutique products liability and personal injury firm. Nationwide practice consisted of automotive products liability litigation and other catastrophic personal injury matters.

Buenker Nielsen & Kurisky, L.L.P., Houston, Texas

Partner, April, 1999 to January, 2001

Litigation partner in general civil practice firm. Practice consisted of personal injury defense, personal injury plaintiff, toxic tort, employment discrimination, insurance bad faith, D.T.P.A. and commercial litigation matters.

Josef F. Buenker, Attorney at Law, Houston, Texas

Solo Practice, November, 1996 to March, 1999

Solo practitioner concentrating in civil litigation. Practice consisted of personal injury defense, personal injury plaintiff, employment discrimination, insurance bad faith, D.T.P.A. and commercial litigation matters.

Buck, Keenan & Owens, L.L.P., Houston, Texas

Associate Attorney, April, 1994 to November, 1996

Associate in a firm specializing in civil litigation. Practice consisted of personal injury defense, personal injury plaintiff, employment discrimination, insurance bad faith, D.T.P.A. and commercial litigation matters.

Bristow Hackerman Wilson & Peterson, P.C., Houston, Texas

Associate Attorney, December, 1991 to March, 1994

Associate in a firm specializing in civil litigation. Practice consisted mainly of personal injury defense work, with primary responsibility for a docket of 90-110 cases. Also assisted shareholders on other general civil litigation matters, including D.T.P.A., banking, products liability and insurance matters.

Williams & Smith, Houston, Texas

Associate Attorney, November, 1989 to December, 1991

Associate in firm specializing in personal injury defense litigation, including automobile accidents, construction site accidents, premises liability, medical malpractice, workers' compensation and maritime matters. Responsible for docket of 200+files.

EDUCATION

University of Houston Law Center

Doctor of Jurisprudence, May, 1989

Rice University

Bachelor of Arts, Political Science and German, May, 1986

PUBLICATIONS

Buenker, Josef F. The Interpreter's Guide to the Vehicular Accident Lawsuit. Clevedon, England: Multilingual Matters, 2005.

Buenker, Josef F. and Teichman, Diane E. "Revelations of a Case Style in a Vehicular Accident Lawsuit." JLD Times, Winter 2005 (and various reprints on interpreting and translation websites).

The Buenker Law Firm

P.O. Box 10099
Houston, TX 77206
(713) 868-3388

June 15, 2023

MachineStation

Invoice Number: Draft

Invoice Period: 09-23-2022 - 06-15-2023

Payment Terms: Upon Receipt

RE: Overtime**Time Details**

Date	Professional	Description	Hours	Rate	Amount
09-23-2022	Josef Buenker	Phone conference with Eduardo Lopez regarding his problems with Machine Station and their pay structure.	0.40	500.00	200.00
09-29-2022	Josef Buenker	Review information from employees who called; evaluate potential overtime claims.	0.50	500.00	250.00
09-29-2022	Josef Buenker	Research regarding Machinestation corporate matters.	0.80	500.00	400.00
10-17-2022	Josef Buenker	Research regarding independent contractor issues and factors.	0.40	500.00	200.00
01-10-2023	Josef Buenker	Research regarding Machinestation corporate entities.	0.80	500.00	400.00
01-10-2023	Josef Buenker	Legal research regarding service of process on corporations that have not registered to do business in Texas.	0.40	500.00	200.00
01-12-2023	Josef Buenker	Work on drafting original complaint against Defendant.	2.10	500.00	1,050.00
05-12-2023	Josef Buenker	Review information regarding service of process; determine that Texas law has been satisfied with regard to service; file proofs of service and draft request for clerk's default.	0.90	500.00	450.00
05-17-2023	Josef Buenker	Prepare for conference with Judge Bray tomorrow.	0.40	500.00	200.00
05-18-2023	Josef Buenker	Work on doing damages calculations for conference with Judge Bray.	0.60	500.00	300.00
05-18-2023	Josef Buenker	Initial conference with Judge Bray.	0.30	500.00	150.00
06-08-2023	Josef Buenker	Work on drafting motion for default judgment.	1.60	500.00	800.00
06-09-2023	Josef Buenker	Work on putting together damages models for clients for default motion.	1.40	500.00	700.00
06-12-2023	Josef Buenker	Work on drafting declarations for clients.	2.70	500.00	1,350.00

We appreciate your business

Page 1 of 3

Date	Professional	Description	Hours	Rate	Amount
06-12-2023	Josef Buenker	Work on drafting motion for default judgment.	2.80	500.00	1,400.00
06-13-2023	Josef Buenker	Finish damages calculations for motion.	0.80	500.00	400.00
06-13-2023	Josef Buenker	Draft proposed final judgment.	0.60	500.00	300.00
06-13-2023	Josef Buenker	Find Texas statutory provisions regarding service long-arm service on foreign corporation not registered to do business in Texas.	0.70	500.00	350.00
06-14-2023	Josef Buenker	Work on drafting damages portion of motion for default judgment.	1.20	500.00	600.00
06-14-2023	Josef Buenker	Work on preparing exhibits for motion for default judgment.	0.80	500.00	400.00
06-14-2023	Josef Buenker	Legal research to confirm and plead Texas law regarding serviced of process for default motion.	0.60	500.00	300.00
06-14-2023	Josef Buenker	Work on drafting JFB declaration regarding service of process.	0.80	500.00	400.00
06-15-2023	Josef Buenker	Work on drafting attorney fee declaration.		500.00	No Charge
06-15-2023	Josef Buenker	Finalize proposed final judgment.	0.30	500.00	150.00
			Total		10,950.00

Time Summary

Professional	Hours	Amount
Josef Buenker	21.90	10,950.00
Total		10,950.00

Expenses

Expense	Amount
E112 - Court fees	402.00
E107 - Delivery services / messengers	164.00
E107 - Delivery services / messengers	164.00
Total Expenses	730.00
Total for this Invoice	11,680.00

ENTERED

October 11, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Santos Ozuna, et al.,	§	
Plaintiffs,	§	
	§	
v.	§	Civil Action H-20-2550
	§	
Pro Weld Industrial Services, LLC,	§	
Defendant.	§	

**ORDER GRANTING MOTION FOR ENTRY OF JUDGMENT AND
ATTORNEY'S FEES**

This is a collective action under the Fair Labor Standards Act (FLSA). Pending before the court is Plaintiffs' Motion for Award of Fees and Entry of Judgment. ECF No. 76. Defendant's response to the motion, ECF No. 77, does not address the issue of attorney's fees. Instead, the response requests that the court revisit the issue of whether liquidated damages are appropriate. For the reasons stated in the court's Order granting summary judgment, ECF No. 72, the court concludes that liquidated damages are appropriate.

Plaintiff seeks \$71,985 in attorney's fees. Determination of a reasonable attorney's fee requires the court to "first calculate[] the 'lodestar' by multiplying the reasonable number of hours spent on the case by the reasonable hourly rate." *Sheffield v. Stewart Builders, Inc.*, Civil Action No. H-19-1030, 2021 WL 951897,

at *2 (S.D. Tex. Mar. 10, 2021). In the second step, the court considers the *Johnson*¹ factors to determine whether the lodestar should be adjusted. *Id.* The party seeking attorney's fees bears the burden to prove the reasonableness of the hours spent, the hourly rate, and that billing judgment was exercised. *Pathan v. Basit Enters., Inc.*, Civil Action No. H-09-1506, 2011 WL 13244519, at *3 (S.D. Tex. Jan. 18, 2011).

In support of the fee request, Plaintiffs' counsel submitted affidavits and other evidence showing that his customary hourly rate is \$500 per hour. ECF No. 76-1, 76-3–76-11. He has also attached his billing statements showing all the hours worked. ECF No. 76-2. The billing statements do not contain any excessive hours or any work that the court can discern to be unnecessary. Moreover, the billing statements show several entries where work was performed, but counsel decided not to charge for it or deleted the entry, thus demonstrating billing judgment. The court also notes that several entries are billed at less than the requested \$500 per hour.

Because Defendant has not responded to the request for attorney's fees and costs, the request is deemed unopposed. *See* Local Rules for the Southern District of Texas LR 7.4 ("Failure to respond to a motion will be taken as a representation of no opposition."). An attorney's unopposed requested hourly rate is generally assumed to be *prima facie* reasonable. *See La. Power & Light Co. v. Kellstrom*, 50 F.3d 319, 328 (5th Cir. 1995); *Shaw v. Ciox Health LLC*, Civil Action No. 19-14778,

¹ *Johnson v. Ga. Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974).


2021 WL 928032 at *2 (E.D. La. Mar. 11, 2021). Given the court's knowledge of Plaintiffs' counsel and the court's knowledge of this case, the court concludes that both the requested hourly rate and the requested hours are reasonable. The court also concludes that the *Johnson* factors do not warrant adjustment up or down. Attorney's fees in the amount of \$71,985 are awarded.

Plaintiffs also seek \$1,330.70 in costs. Included in the costs requested are those for private process servers, which are not contemplated by 28 U.S.C. § 1920 and will not be awarded. *See Alejandro v. Prop. Care Sols. LLC*, No. 4:22-CV-22, 2022 WL 3223172, at *7 (E.D. Tex. Aug. 9, 2022) (citing *Gagnon v. United Technisource, Inc.*, 607 F.3d 1036, 1045 (5th Cir. 2010)). The fee request is therefore reduced by \$259.25 to \$1,071.45.

Plaintiff is awarded \$71,985 in attorney's fees and \$1071.45 in costs.

The court will enter a separate final judgment.

Signed at Houston, Texas, on October 11, 2022.



Peter Bray
United States Magistrate Judge

DECLARATION OF DOUGLAS B. WELMAKER

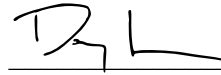
THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

1. My name is Douglas B. Welmaker. I am over the age of eighteen years, and competent to make this declaration. I make this declaration pursuant to the provisions of 28 U.S.C. Sec.1746.
2. I am a licensed attorney who practices law in the United States Federal District Court, in the Southern District of Texas. I graduated from South Texas College of Law in 1993 and have been a member of the Texas Bar since that time. I regularly represent parties in the Southern District of Texas in wage & hour litigation arising under the Fair Labor Standards Act. My resume is attached to this declaration.
3. I am familiar with Josef F. Buenker, who is an attorney who also practices in the area of wage & hour law in the Southern District of Texas. I have had occasion to see Mr. Buenker's knowledge and competence in FLSA litigation by litigating cases both with and against him and by working for him. In my experience and opinion, Mr. Buenker is extremely skilled and knowledgeable with respect to all aspects of FLSA litigation.
4. Mr. Buenker has practiced law in Texas since 1989, and has handled and tried numerous FLSA lawsuits during his career. He is recognized by both plaintiff-side and defense-side attorneys as being very competent in FLSA matters.

I am familiar with the rates charged by attorneys with experience, knowledge, and skill similar to Mr. Buenker the Southern District of Texas and believe that a reasonable billing rate for Mr. Buenker in an FLSA lawsuit would be \$525 per hour, which is the same rate I am currently charging. My prior rate of \$500 per hour was recently affirmed as customary and reasonable by Judge Nelva Gonzales Ramos in *Carranza v. Cirlos*, in the United States District Court for the Southern District of Texas, Corpus Christi Division, CA 2:18-cv-419, Dkt. 36. This hourly fee would be one customarily charged in this Houston Harris County area and district for the same or similar services for an attorney with Mr. Buenker's experience, reputation, and ability.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed December 28, 2020.

A handwritten signature in black ink, appearing to be 'DWL', written above a horizontal line.

Douglas B. Welmaker

Douglas B. Welmaker
Of Counsel, Moreland Verrett, PC
700 West Summit Dr., Wimberley, Texas 78676
• (512) 782-0567 • doug@morelandlaw.com

EDUCATION

- The University of Texas at Austin, Bachelor of Arts, English (1989)
 - Journalism minor
- South Texas College of Law, Juris Doctor, (1993)
 - Top 15%
 - Assistant Editor, South Texas Law Review
 - American Jurisprudence Award, Torts I
 - Dean's List, 4 Semesters
 - Finalist: William J. Williamson Writing Contest
 - Order of the Lytae

PROFESSIONAL EXPERIENCE

- Of Counsel, Moreland Verrett, PC, Austin, Texas, April 2018 through Present
 - Focus limited to FLSA litigation, throughout Texas, New Mexico, and North Dakota
 - Responsible for managing my own docket of cases
 - prevailed in computer exemption case before Judge Mazzant in the Eastern District of Texas
- Dunham & Jones, PC, Austin, Texas, April 2013 through April 2018
 - chair of firm's FLSA practice, including supervision of up to five attorneys and three support staff; responsible for all aspects of litigation management and strategy; developed firm procedure for litigating FLSA lawsuits from start to finish; assisted in development of proprietary case management software
 - responsible for litigation of up to 45 FLSA cases at any one time
 - prevailed in 2016 FLSA trial before Judge Hoyt; prevailed in 2015 FLSA arbitration in Washington, DC
 - prevailed in 5th Circuit reversing district court's summary judgment in FLSA matter
- Level 2 Review, Tyler, Texas, August 2011 through March 2013
 - assisted with e-discovery, compliance, and privilege projects for Fortune 50 companies
 - worked with counsel to identify key documents for trial and advised on privilege matters
 - worked with trial counsel in identifying concerns and key documents for DOJ review of mergers

- performed contract work during this time with Sloan Bagley Hatcher & Perry in Longview, Texas focusing on FLSA litigation
- Warren & Siurek, LLP, Houston, Texas, March 2008 through February 2011
 - developed and grew practice focusing solely on litigation of Fair Labor Standards Act cases in Federal Court
 - tried multiple successful first chair trials in Southern District of Texas
- Cowan & Lemmon, LLP, Houston, Texas, January 2005 through February 2008
 - litigated nursing home medical malpractice cases as well as employment law matters
 - prevailed in temporary restraining order/temporary injunction matter involving former employees accused of violating their covenants not to compete
 - defended FLSA lawsuit before Judge Rainey
- Petroff & Associates, Dallas, Texas, October 2001 through January 2005
 - litigated and assisted in the management of mass tort docket (fen-phen diet drug litigation)
 - prepared and presented multiple plaintiffs for deposition
 - deposed AHP/Wyeth experts including doctors and epidemiologists
 - responsible for assisting firms across the country that had an imminent trial setting against AHP/Wyeth with exhibit strategy
- Brown McCarroll, LLP, Houston, Texas, April 1996 through October 2001
 - litigated labor and employment matters, including workmen's compensation retaliation cases and OSHA matters
- Wickliff & Hall, Houston Texas (now Epstein, Becker, Green), May 1992 through March 1996
 - litigated labor and employment matters for Fortune 500 clients, including Kroger, Safeway, Dow Chemical, and McDonald's
 - second-chaired three cases (two in federal court, one in state) all of which resulted in defense verdicts

MEMBERSHIP/AFFILIATIONS

- The State Bar of Texas
- The Fifth Circuit Court of Appeals
- The United States District Courts for the Northern, Southern, and Eastern Districts of Texas
- Texas Employment Lawyers Association

DECLARATION OF EDWIN SULLIVAN

Pursuant to 28 U.S.C. § 1746, Edwin Sullivan declares, subject to penalty of perjury, as follows:

1. My name is Edwin Sullivan. I am over the age of twenty-one years, of sound mind, and competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct to the best of my knowledge.
2. I am the managing partner at Oberti Sullivan LLP. I have been a licensed to practice law in Texas since November 1997. I am an attorney in good standing admitted to practice before each of the federal district courts in the State of Texas, the District Court of Colorado, and the U.S. Court of Appeals for the Fifth Circuit. I am Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization.
3. I have a law degree from the University of Houston Law Center. After graduation, I worked as an Assistant Attorney General for the Office of the Attorney General for the State of Texas. Then, before going into private practice, I served as a law clerk to United States Magistrate Judge Marcia A. Crone (now a U.S. District Judge in the Eastern District of Texas).
4. After clerking for Judge Crone, I began the private practice of law. I practiced in the Houston office of Seyfarth Shaw LLP for seven years and eleven months. Seyfarth Shaw LLP is a national law firm with a significant presence in labor and employment litigation. I was promoted to Partner in the Labor and Employment section in 2005. I worked on some of the law firm's biggest cases, including *Colindres v. Quietflex Mfg.*, a case written about in *The New York Times*, and one in which I was primarily responsible for briefing. Thanks in part to my efforts, class certification was denied. *Colindres v. Quietflex Mfg.*, 235 F.R.D. 347 (S.D. Tex. 2006).
5. On June 15, 2010, I started Oberti Sullivan LLP with my partner, Mark Oberti, who is also Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization.
6. I also served as an Adjunct Professor at the University of Houston Law Center from 2001-2011, teaching trial advocacy.
7. For several years, much of my day-to-day work has been defending companies sued under various employment statutes. I also handle a substantial number of plaintiffs' cases in the area of employment law, but most of my time is spent as a defense lawyer.
8. Much of my work has been in the field defending claims under the federal Fair Labor Standards Act ("FLSA"). In 2009, I served as an Editor to a Seyfarth Shaw LLP publication entitled "Recent Trends in Defending Federal Wage & Hour

Complex Litigation.” Among other sections, I was responsible for writing the chapter entitled “Was the Employee Paid Correctly for Overtime (Regular Rate)?” My name is recognized as an Editor to that publication. I have given approximately 20 CLE presentations to other lawyers on the federal Fair Labor Standards Act. They can be found at http://www.osattorneys.com/about_ed.html.

9. While my rate varies, my 2020 rate is typically \$575 per/hour for my services, although this is sometimes lower and sometimes higher. This is a rate I have consistently charged and collected. When I left Seyfarth Shaw LLP in 2010, my rate was \$375 per/hour. It would almost certainly be much higher than \$575 per/hour now. I believe my rate is lower than the customary rates for attorneys of the same stature in the Houston legal market.
10. I have represented several clients against the Buenker Law Firm in unpaid overtime litigation, including Josef Buenker and Vijay Pattisapu. In our community, they have a strong reputation for their quality of work and their diligent representation of workers in FLSA and wage and hour lawsuits.
11. I am aware of the customary rates for attorneys of various skill levels who focus their practice in the area of labor and employment law within the Houston, Texas area. The customary rate for attorneys of skill level, experience is over \$500 per/hour or more.
12. Based on my experience and knowledge, it is my opinion that the hourly rates asserted by Josef Buenker (\$425 per/hour) and Vijay Pattisapu (\$350 per/hour) are reasonable and in line with this market given their skills, experience, and reputations. They are within the range of rates awarded to attorneys with similar backgrounds and experience. *Novick v. Shipcom Wireless, Inc.*, Civil Action No. 4:16-CV-00730, 2018 WL 6079348, at *3 (Nov. 21, 2018) (an opinion from two years ago concluding that \$500 per hour was a reasonable rate for experienced labor and employment attorneys for time sheets dating back to 2015).

Executed on December 27, 2020:



Edwin Sullivan

DECLARATION OF NITIN SUD

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

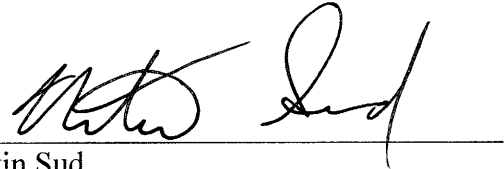
§

1. My name is Nitin Sud. I am over the age of eighteen years, and competent to make this declaration. I make this declaration pursuant to the provisions of 28 U.S.C. Sec.1746.
2. I am a licensed attorney who practices law in the federal courts, including the Southern District of Texas. I obtained my undergraduate degree from Duke University in 2000, graduated from the University of Houston Law School in 2005, and have been a member of the Texas Bar since 2005. I regularly represent parties in the Southern District of Texas in wage & hour disputes arising under the Fair Labor Standards Act. I am certified by the Texas Board of Legal Specialization in labor and employment law. I have practiced almost exclusively in labor and employment law for fifteen years, primarily in Houston, TX. I first worked at Littler Mendelson, P.C. from September 2005 to June 2010, and then Fulbright & Jaworski LLP (now Norton Rose Fulbright) from June 2010 to May 2013. I opened Sud Law P.C. in May 2013 where I have continued to practice labor and employment law, primarily representing employees/plaintiffs in claims against employers. I am a member of the National Employment Lawyers Association (NELA), the Texas Employment Lawyers Association (TELA), and served as a Council member of the Labor and Employment Section of the Houston Bar Association. Additional information can be located at <http://www.sudemploymentlaw.com/attorney-resume/>.
3. I am familiar with Josef F. Buenker, an attorney who also practices in the area of wage & hour law in the Southern District of Texas. I have had occasion to see Mr. Buenker's knowledge and competence in FLSA litigation by seeking advice from him on and otherwise discussing FLSA matters and participating in round-table discussions led by Mr. Buenker on the subject of FLSA litigation. The FLSA and its interpreting regulations and case law are a very involved and specialized area of law. In my experience and opinion, Mr. Buenker is extremely knowledgeable in FLSA litigation.
4. I understand Mr. Buenker has practiced law in Texas since 1989 and has handled and tried numerous FLSA lawsuits during his career. He is recognized by both plaintiff-side and defense-side attorneys as being very competent in FLSA matters.
5. I am familiar with the rates charged by attorneys with experience, knowledge, and skill similar to Mr. Buenker in the Southern District of Texas and believe that a reasonable billing rate for Mr. Buenker in an FLSA lawsuit would be at least \$500

per hour. This hourly fee would be one customarily charged in this area and district for the same or similar services for an attorney with Mr. Buenker's experience, reputation, and ability.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed December 28, 2020.

A handwritten signature in black ink, appearing to read 'Nitin Sud', is written over a horizontal line.

Nitin Sud

DECLARATION OF TRANG TRAN

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

1. My name is Trang Tran. I am over the age of eighteen years, and competent to make this declaration. I make this declaration pursuant to the provisions of 28 U.S.C. Sec.1746.
2. I2. I graduated from South Texas College of Law in 1995. I formed the Tran Law Firm in 1996, where we concentrate our practice in employment and business litigation.
3. I am an attorney licensed to practice in the State of Texas, admitted to all federal courts in Texas, the Fifth Circuit Court of Appeals, the U.S. Supreme Court.
4. My professional activities include serving as a board member of the Labor & Employment Law Section of the State Bar of Texas. I recently served as the co-chair of the sections' 26th Annual Labor and Employment Law Institute. I have served for over 10 years as a Board Member of the Texas Employment Lawyers Association and was appointed as the Secretary of the organization this year. I have served as the President of the Houston Chapter of National Employment Lawyers Association and currently sit on its Board of Directors.
5. I am a 2010 graduate of the Trial Lawyer's College and have attended several Graduate programs.
6. I have been recognized by my peers as Super Lawyer since 2013.
7. I have served as the President of the Asian American Bar Association in Houston.
8. I have, for over twenty-three, represented many individuals and companies in litigation in state and federal court in addition to arbitration. I have practiced on both sides of the docket, although I primarily represent employees. The litigation matters I have handled involved employment discrimination, theft of trade secrets, non-compete agreements and many actions under the Fair Labor Standards Act. Most cases have been rather complex and have required extensive factual investigation and legal research.

9. Some of the appellate decisions in which my firm has served as counsel are: *Songer v. Dillon Res., Inc.*, 618 F.3d 467 (5th Cir. 2010); *Carey v. 24 Hour Fitness*, No. 10-20845 (5th Cir. 2012); *Montano v. Montrose Restaurant* No. 14-20202 (5th Cir. 2015). All of these cases have been cited in many FLSA cases over the years.
10. I speak at CLE functions on different aspects of employment law. Some of the topics that I have presented on are as follow: Proving Up Damages in FLSA Cases 2015 National Employment Lawyers Association convention-Atlanta, GA; Fee Petition in FLSA Cross Examination of Hostile Witnesses, 21st Annual Advanced Employment Law Course, State Bar of Texas, January 17-18, 2013; Recent Developments in Compulsory Arbitration, Houston Bar Association Continuing Legal Education Seminar, December 2012; and A Review of Recent Developments in Wage and Hour Litigation, State Bar of Texas Continuing Legal Education Seminar, September 2012. Expert Testimony in Employment Discrimination and Harassment, Strafford Webinar and Conference, September 2012.
11. I am familiar with Vijay A. Pattisapu, an attorney who also practices in the area of wage & hour law in the Southern District of Texas. I have had occasion to see Mr. Pattisapu's knowledge and competence in FLSA litigation by (participating in round-table discussions with Mr. Pattisapu on the subject of FLSA litigation). The FLSA and its interpreting regulations and case law are a very involved and specialized area of law. In my experience and opinion, Mr. Pattisapu is (describe competence, knowledge, understanding, etc.) in FLSA litigation.
12. I am also familiar with Mr. Buenker. He has practiced law in Texas since 2013. I have litigating cases against him, seeking advice from him on FLSA matters, participating in round-table discussions with him on the subject of FLSA litigation. Mr. Buenker has handled and tried numerous FLSA lawsuits during his career. He is recognized by both plaintiff-side and defense-side attorneys as being very competent in FLSA matters.
13. I am familiar with the rates charged by attorneys with experience, knowledge, and skill similar to Mr. Pattisapu in the Southern District of Texas and believe that a reasonable billing rate for Mr. Pattisapu in an FLSA lawsuit would be \$400 and Mr. Buenker should be \$550 per hour. If Mr. Buenker is asking for \$425 that is below market rate. This hourly fee would be one customarily charged in this area and district for the same or similar services for an attorney with Mr. Pattisapu's experience, reputation, and ability.

14. The 2015 State Bar Survey was problematic for several reasons: I and many of the employment lawyers I spoke to did not receive the invitation to the survey and didn't get to participate in the survey. As a result, the 2015 survey did not have a good sampling of the Houston market because many of the rates were very low compared to what employment lawyers charged in 2015. I have increased my rates on an annual basis since 2015 and do not think the "survey" accurately reflect the market rate for Mr. Buenker and Mr. Pattisapu.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed December 28, 2020.

Trang Tran

DECLARATION OF SALAR ALI AHMED

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

1. My name is Salar Ali Ahmed. I am over the age of eighteen years, and competent to make this declaration. I make this declaration pursuant to the provisions of 28 U.S.C. Sec.1746.
2. I am a licensed attorney who practices law in the United States Federal District Court, in the Southern District of Texas. I graduated from South Texas College of Law in 1998, and have been a member of the Texas Bar since 2000. I am primarily engaged in wage & hour litigation in the Southern District of Texas, including individual and collective action lawsuits filed under the federal Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”). Attached to this declaration is a representative list of wage & hour litigation that resulted in fee awards from Judges in the Southern District of Texas. In addition, I have litigated approximately one hundred wage & hour cases that were resolved prior to trial.
3. I am familiar with Josef F. Buenker, an attorney who also practices in the area of wage & hour law in the Southern District of Texas. I have had occasion to experience Mr. Buenker’s knowledge and competence in FLSA litigation by litigating cases with and against him, seeking advice from him on FLSA matters, and regularly discussing specialized FLSA related issues that I encounter in my legal practice. The FLSA and its interpreting regulations and case law are a very involved and specialized area of law. In my experience and opinion, Mr. Buenker is professional, ethical, and highly competent, and he possesses detailed knowledge and understanding of the FLSA and litigation pursuant to the FLSA.
4. Mr. Buenker has practiced law in Texas since 1989, and has handled and tried numerous FLSA lawsuits during his career. He is recognized by both plaintiff-side and defense-side attorneys as being very competent in FLSA matters.
5. I am familiar with the rates charged by attorneys with experience, knowlege, and skill similar to Mr. Buenker in the Southern District of Texas, and believe that a reasonable billing rate for Mr. Buenker in an FLSA lawsuit would be \$500.00 per hour. This hourly fee would be one customarily charged in this area and district for the same or similar services for an attorney with Mr. Buenker’s experience, reputation, and ability.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed December 28, 2020.



SALAR ALI AHMED

FLSA Litigation Resulting in Attorney Fee Awards

- H-07-2160; *Rabia Detho, and All Others Similarly Situated v. Asia Bilal, et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Lee H. Rosenthal).
- H-09-1782; *Moinuddin Qazi v. Houston Corner Store, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Keith P. Ellison).
- H-09-01506; *Aijaz Gul Pathan v. Basit Enterprises, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. David Hittner).
- H-10-376; *Magdalena de Jesus v. My Outdoor Designer, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Lynn Hughes).
- H-10-2292; *Celso Alcala v. Aunt Bea's, LLC, et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. David Hittner).
- H-10-3757; *Mohammad Zubair Safdar v. AFW, Inc. d/b/a Affordable Furniture, et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Sim Lake; Hon. Nancy K. Johnson).
- H-11-520; *Sajida Irfan v. Expert Cleaners, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Kenneth M. Hoyt).
- H-11-1459; *Babar Ali; Gul Rashid; and All Others Similarly Situated v. Circle T Quick Stop, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Vanessa D. Gilmore).
- H-11-1668; *Hashim Mustafa; and All Others Similarly Situated v. New Express Mobil Mart, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Kenneth M. Hoyt).
- H-16-737; *Farooq Masihuddin; and All Others Similarly Situated v. 1464 Business, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Lynn Hughes).
- C.A. No. 4:18-cv-03350; *Burhan Alam, et al. v. Kashif Abdul Kabani, et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Lynn Hughes).
- C.A. No. 4:19-cv-01671; *Mohammad Zeeshan Khan v. A/G 727, Inc., et al.*; In the United States District Court for the Southern District of Texas – Houston Division (Hon. Keith P. Ellison).

ENTERED

August 26, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MANUEL MONTALVO, Individually and §
On Behalf of Others Similarly Situated
Plaintiff,

V. § CIVIL ACTION NO. 4:21-cv-0960

JESUS ORDONEZ and MONICA DEL
CARMEN ORDONEZ, Individually and
Doing business as JEMO CONTRACTORS,
Defendants. § JURY DEMANDED

FINAL DEFAULT JUDGMENT

Plaintiff Manuel Montalvo filed a motion for default judgment against Defendants Jesus Ordonez and Monica Del Carmen Ordonez, Individually and doing business as JEMO Contractors. After considering the motion, the affidavits, and other evidence on file, the court GRANTS the motion for default judgment and enters final judgment in favor of Plaintiff Manuel Montalvo and against Defendants Jesus Ordonez and Monica Del Carmen Ordonez, Individually and doing business as JEMO Contractors, jointly and severally, as follows:

- \$9,975.00 in unpaid wages for Manuel Montalvo;
- \$9,975.00 in liquidated damages for Manuel Montalvo;
- \$5,500.00 for reasonable and necessary attorney's fees based on 11 hours of work for Josef F. Buenker at an hourly rate of \$500, which this court finds to be reasonable;
- \$539.60 for court costs and reasonable expenses;

- And postjudgment interest at the rate of .07% per annum.

SIGNED on August 26, 2021, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal". The signature is fluid and cursive, with a large loop at the end of the last name.

Lee H. Rosenthal
Chief United States District Judge

ENTERED

June 18, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SELENE TREVINO, LORENA DELEON, §
SANDY GONZALEZ, ELIDA GOMEZ,
DIANA GARCIA, BRENDA REYES
And MAURICIO CALDERON,

Plaintiffs,

V. § CIVIL ACTION NO. 4:18-cv-2117

TAQUERIA ARANDAS NO. 38, INC.
And JOSE ABRAM ROMERO,
Defendants.

§ JURY DEMANDED

FINAL JUDGMENT

On May 17, 2021, the above matter was called to trial. The Court qualified and seated a jury of seven. On that same day, the parties submitted their evidence and made their jury arguments. The jury reached a verdict, which is recorded in the Court's records at Docket No. 56. In accordance with the findings of the jury, the Court finds that a Final Judgment should be entered in favor of the Plaintiffs, Selene Trevino, Lorena Deleon, Sandy Gonzalez, Elida Gomez, Diana Garcia, and Brenda Reyes, against Defendants, Taqueria Arandas No. 38, Inc. and Jose Abram Romero. It is therefore ORDERED that Plaintiffs will recover from Defendants Taqueria Arandas No. 38, Inc. and Jose Abram Romero, jointly and severally:

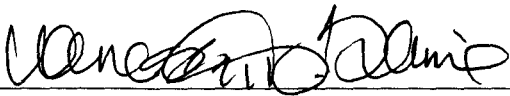
- \$26,989.50 in unpaid minimum wages for Selene Trevino;
- \$26,989.50 in liquidated damages on the minimum wages for Selene Trevino;
- \$6,352.83 in unpaid overtime wages for Selene Trevino;
- \$6,352.83 in liquidated damages on unpaid overtime for Selene Trevino;
- \$19,019.00 in unpaid minimum wages for Lorena DeLeon;
- \$19,019.00 in liquidated damages on the minimum wages for Lorena DeLeon;
- \$2,796.74 in unpaid overtime wages for Lorena DeLeon;

- \$2,796.74 in liquidated damages on unpaid overtime for Lorena DeLeon;
- \$21,014.00 in unpaid minimum wages for Sandy Gonzalez;
- \$21,014.00 in liquidated damages on the minimum wages for Sandy Gonzalez;
- \$3,999.93 in unpaid overtime wages for Sandy Gonzalez;
- \$3,999.93 in liquidated damages on unpaid overtime for Sandy Gonzalez;
- \$16,848.88 in unpaid minimum wages for Elida Gomez;
- \$16,848.88 in liquidated damages on the minimum wages for Elida Gomez;
- \$2,591.76 in unpaid overtime wages for Elida Gomez;
- \$2,591.76 in liquidated damages on unpaid overtime for Elida Gomez;
- \$16,667.75 in unpaid minimum wages for Diana Garcia;
- \$16,667.75 in liquidated damages on the minimum wages for Diana Garcia;
- \$3,800.29 in unpaid overtime wages for Diana Garcia;
- \$3,800.29 in liquidated damages on unpaid overtime for Diana Garcia;
- \$3,249.00 in unpaid minimum wages for Brenda Reyes;
- \$3,249.00 in liquidated damages on the minimum wages for Brenda Reyes;
- \$142.60 in unpaid overtime wages for Brenda Reyes;
- \$142.60 in liquidated damages on unpaid overtime for Brenda Reyes;
- \$64,065.00 for reasonable and necessary attorney's fees based on 125.3 hours for Josef F. Buenker at an hourly rate of \$500, which this Court finds to be reasonable, and 2.0 hours for Vijay A. Pattisapu at an hourly rate of \$400, which this Court finds to be reasonable; and
- \$1,100.00 for court costs.

Additionally, this Court retains jurisdiction over enforcing this judgment and any future attorney's fees and costs incurred by Plaintiffs, including fees and costs that may be incurred defending an appeal and collecting this final judgment.

All relief not granted herein is denied.

SIGNED on June 16, 2021.



HONORABLE VANESSA GILMORE,
UNITED STATES DISTRICT JUDGE